

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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NICHOLAS TOMASINI,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting  
Commissioner, Social Security  
Administration,

Defendant.  
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ORDER

12-cv-294-bbc

This case is before the court on plaintiff's motion to allow him to pay his attorney fees to his counsel under 42 U.S.C. § 406. In earlier orders, I awarded his counsel fees in the amount of \$6,314.50, dkt. #24, and additional fees in the amount of \$1,098.75, dkt. #27. Counsel says in his brief that the attorney fees were never paid by defendant; it appears that he is talking only about the second, smaller award.

Now plaintiff has been awarded benefits and has moved the court to allow him to pay his counsel \$9,241.50 in addition to the \$6,314.50 he has already paid, for a total of \$15,556.00. This amount equals 25% of his past-due benefits withheld by the Social Security Administration. Although counsel never says explicitly that he and plaintiff entered into a contract specifying that plaintiff would pay counsel 25% of any past due benefits he received, I will assume that this was the case.

Plaintiff asks the court to grant relief under its order and judgment, dkt. ##27 & 28, in which plaintiff's counsel was awarded attorney fees of \$1,098.75. I will deny that request but will treat the order and judgment as moot, in light of plaintiff's counsel's representation that it was never honored.

ORDER

IT IS ORDERED that the order entered on May 16, 2013, dkt. #27, and the judgment entered on May 23, 2013, dkt. #28, are moot; FURTHER, IT IS ORDERED that plaintiff Nicholas Tomasini's motion to allow him to fulfill his contract with his counsel, David Traver, is GRANTED. Plaintiff is to pay his counsel the sum of \$9,241.50, which, with counsel's prior award of \$6,314.50, will complete plaintiff's contractual obligation to his counsel to pay him 25% of the past due benefits he has received from defendant.

Entered this 18th day of February, 2015.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge